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16 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA

17 CITY OF SAN JOSE; PEOPLE OF THE
18 STATE OF CALIFORNIA; GINDIN-R&B
19 COMPANY

20 Plaintiff,

21 vs.

22 MARTIN & ROSANNA ALVAREZ, et al.

23 Defendants.

NO. 1-96-CV 759667

**DECLARATION OF PATRICIA FAY IN
SUPPORT OF PLAINTIFF'S MOTION
TO MODIFY THE PERMANENT
INJUNCTION AND FINAL JUDGMENT
PURSUANT TO STIPULATION FILED
ON APRIL 11, 1997**

Date: January 29, 2010

Time: 9:00 a.m.

Dept: 5

Judge: Hon. Mary Jo Levinger

24 I, PATRICIA FAY, declare as follows:

25 1. I am employed as a "Senior Crime and Intelligence Analyst" for the San Jose
26 Police Department, where I have been employed since November 1981. I was promoted to
27

1 my current position in October 2000. Previously, I held the position of "Crime Data
2 Specialist" for a period of seven and one-half (7-1/2) years. Before that, I held the position
3 "Police Data Specialist" for a period of eleven (11) years and two (2) months.

4 2. In November of 2001, I earned a California Department of Justice Certified
5 Crime and Intelligence Analyst credential for completion of the Crime and Intelligence
6 Analysis Program through California State University at Sacramento.

7 3. I have completed a forty (40)-hour course and received a certification in August
8 2002 relating to "Analyst's Notebook, Criminal Intelligence Analysis" software.

9 4. I have completed a forty (40)-hour course and received a certification in June
10 2002 relating to the "Crime Analysis Mapping Program."

11 5. The San Jose Police Department's Crime Analysis Unit compiles and maintains
12 records reflecting incidents of criminal activity in San Jose based upon information that is
13 reported in police dispatch records and police reports. These records are received and
14 maintained by San Jose Police Department personnel who have an official duty to receive
15 and maintain them. Police reports and dispatch records documented by personnel of the
16 San Jose Police Department contain information that is factual in nature. The information is
17 documented at or near the time of the reported incident by San Jose Police Department
18 personnel who have an official obligation to document the information. The San Jose Police
19 Department also receives reports of incidents of criminal activity from citizens, which
20 information is received by San Jose Police Department personnel who have an official
21 obligation to receive and maintain it. All reported incidents of criminal activity are maintained
22 by San Jose Police Department personnel who have an official obligation to maintain the
23 information in the course of their duties.

24 6. My current official duties as a Senior Crime and Intelligence Analyst include
25 supervising a team of three (3) Crime and Intelligence Analysts and administrative support
26 personnel. My supervisory duties include but are not limited to training, project assignment,
27 and personnel functions. I am responsible for the research, analysis, compilation, and
28

1 presentation of crime data in response to requests of a complex nature. These requests
2 include the preparation of tables, maps, charts, and graphs depicting crime data within the
3 City of San Jose.

4 7. In my previous capacity as a Crime Data Specialist, I was responsible for
5 performing crime data analysis using various automated law enforcement systems and
6 software to provide statistical crime data to command staff, investigators assigned to
7 specialized police units, and patrol officers for use in identification and apprehension of
8 criminal offenders, deployment of patrol resources, and development of pro-active crime
9 prevention strategies.

10 8. In my previous capacity as a Police Data Specialist, I was responsible for
11 performing specialized technical work utilizing numerous law enforcement information
12 systems. My assignments involved input, maintenance, and retrieval of official police records
13 concerning all aspects of police records, including but not limited to police reports, citizen
14 calls for service, vehicle impound records, warrant information, and inventories of stolen
15 property. As a Police Data Specialist, I often trained other Police Data Specialists on various
16 aspects of data compilation.

17 9. I have been requested to provide a statistical crime analysis for the geographic
18 area of San Jose known as the "Santee Neighborhood" which is the subject Plaintiff's Motion
19 to Modify the 1997 Permanent Injunction. In response to this request, I compiled and
20 analyzed statistical crime data of the San Jose Police Department relating to "reported
21 incidents" of various types of criminal activity in this area in relationship to the larger
22 geographic area known as a "beat building block (commonly referred to as BBB)" in which
23 the Santee Neighborhood is located.

24 10. The Crime Analysis Unit defines the distinct geographic areas located within
25 San Jose patrol districts as beat building blocks to facilitate statistical comparisons of defined
26 geographic sections of San Jose. There are three hundred and fifty-seven (357) beat building
27 blocks within the City of San Jose. The Santee Neighborhood is located in BBB 219 and is
28

1 defined as the four-block area bounded by Carnelian Drive, Crucero Drive, Dubert Lane, and
2 Santee Drive, which includes Tami Lee Drive and McQuesten Drive. Attached hereto as
3 Exhibit A is a true and correct copy of an official map used by the San Jose Police
4 Department's Crime Analysis Unit that accurately depicts the described geographic areas.

5 11. The statistical crime data that I compiled during the period January 1, 2008,
6 through August 31, 2009, that includes the following information for BBB 219 and the Santee
7 Neighborhood:

8 A. Violent Crime: Defined as homicide, attempted homicide, rape, robbery,
9 aggravated assault (not including domestic violence), and simple assault. There were
10 a total of one hundred forty-four (144) violent crimes in BBB 219, of which thirty-two
11 (32), or twenty-two percent (22%), occurred in the Santee Neighborhood. The
12 homicide that occurred in July 2009, was just beyond the boundaries of the Santee
13 Neighborhood. Attached hereto as Exhibit B is a summary of violent crime incidents
14 reported for both the BBB and the Santee Neighborhood.

15 B. Narcotics: There were sixty-nine (69) narcotics incidents with twenty
16 (20), or twenty-nine percent (29%), occurring in the Santee Neighborhood. Attached
17 hereto as Exhibit B is a summary of narcotics incidents reported for both the BBB and
18 the Santee Neighborhood.

19 C. Other Selected Crimes: A total of one hundred eighty-four (184) other
20 selected crimes occurred in BBB219 with forty (40), or twenty-two percent (22%)
21 occurring in the Santee Neighborhood. Attached hereto as Exhibit B is a summary of
22 other selected crimes incidents reported for both the BBB and the Santee
23 Neighborhood.

24 D. Gang Related Incidents: Eighty (80) gang related incidents occurred in
25 BBB 219, with twenty (20), or twenty-five percent (25%), occurring in the Santee
26 Neighborhood. Of the twenty (20) gang incidents in the Santee Neighborhood, eleven
27 (11), or fifty-five percent (55%), were violent crimes. Of the remaining sixty (60) gang
28

1 related incidents in BBB 219, thirty-one (31), or fifty-two percent (52%) were violent
2 crimes. Attached hereto as Exhibit C is a summary of gang related incidents reported
3 for both the BBB and the Santee Neighborhood.

4 14. For purposes of the statistical analysis provided herein, "reported incidents" are
5 defined as police events resulting in a written police report being generated. One reported
6 incident may result in multiple citations and/or arrests.

7 15. For purposes of the statistical analysis provided herein, "narcotics incidents" are
8 defined as misdemeanor and felony offenses involving controlled substances, resulting in a
9 written police report being generated. One narcotics incident may result multiple citations
10 and/or arrests. These include use/influence, possession, possession for sale, sale,
11 manufacture and transportation of all types of controlled substances.

12 16. For purposes of the statistical analysis provided herein, "aggravated assault" is
13 defined as an unlawful attack by one person upon another, for the purpose of inflicting
14 severe or aggravated bodily injury. Aggravated assault is accompanied by the use of a
15 weapon or by means likely to produce death or great bodily harm, and is synonymous with
16 "felonious assault."

17 17. For purposes of the statistical analysis provided herein, "simple assault" is
18 defined as a misdemeanor "person crime" in which an offender attacks the victim in a
19 manner that could or does result in minor injury.

20 18. For purposes of the statistical analysis provided herein, incidents of "disorderly
21 conduct" include trespassing, drinking in public, illegal entry, and prowling, as these terms
22 are defined by Penal Code §602, San Jose Municipal Code §10.12.010, Penal Code §647(i),
23 and Penal Code §647(h), respectively.

24 19. For purposes of the statistical analysis provided herein, "disturbing the peace"
25 is defined as an interruption of the peace, quiet and good order of a neighborhood or
26 community, particularly by unnecessary and distracting noises.

27 20. For purposes of the statistical analysis provided herein, "drunk in public" is
28

1 defined as a person found in any public place while under the influence of intoxicating liquor,
2 any drug, controlled substance, toluene or any combination thereof, in such a condition that
3 he or she is unable to exercise care for his or her own safety or the safety of others.

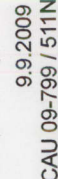
4 21. For purposes of the statistical analysis provided herein, "vandalism" is defined
5 to include reported incidents of malicious mischief, vehicle tampering, and graffiti/tagging.

6 22. When comparing BBB 219 with the other three hundred fifty-six (356) BBBs, it
7 ranks number sixteen (16) in total number of reported incidents and it is the highest ranking
8 BBB in number of gang related incidents. Although the Santee Neighborhood makes up only
9 a small percentage of the total geographic area of BBB 219, it accounts for twenty-one
10 percent (21%) of the total number of reported incidents in BBB 219.

11 I declare under penalty of perjury under the laws of the State of California that the
12 foregoing is true and correct. As to those matters alleged on information and belief, I am
13 informed and believe them to be true and correct. This declaration was executed on
14 December 17, 2009, at San Jose, California.

15 
16 Patricia Fay

EXHIBIT A



****For Law Enforcement Purposes Only****

EXHIBIT B

REPORTED INCIDENTS: SANTEE AREA vs. BBB 219
VIOLENT and SELECT CRIMES
SUMMARY BY INCIDENT TYPE
1.1.2008 - 8.31.2009

VIOLENT CRIME			
INCIDENT TYPE	SANTEE AREA	BBB 219	% SANTEE AREA OF BBB 219*
HOMICIDE		1	
RAPE		2	
AGGRAVATED ASSAULT	13	56	23.21%
ARMED ROBBERY	1	10	
STRONG-ARM ROBBERY		10	
ATTEMPTED ROBBERY		2	
CARJACKING		2	
SIMPLE ASSAULT	18	64	28.13%
Grand Total	32	144	22.22%

~VIOLENT CRIME DEFINED AS HOMICIDE, ATTEMPTED HOMICIDE, RAPE, ROBBERY,
AGGRAVATED ASSAULT (does not include Domestic Violence) AND SIMPLE ASSAULT
~THE HOMICIDE IN BBB 219 OCCURRED JULY 2009 AT 1306 SANTEE DR, JUST OUTSIDE
THE SANTEE AREA BOUNDARY

NARCOTICS AND SELECTED CRIMES			
INCIDENT TYPE	SANTEE AREA	BBB 219	% SANTEE AREA OF BBB 219*
NARCOTICS	20	69	28.99%
DISORDERLY CONDUCT	3	13	
DISTURBING THE PEACE	9	41	
DRUNK IN PUBLIC	12	55	21.82%
VANDALISM	16	75	21.33%
TOTAL SELECTED CRIMES	40	184	21.74%

*Percentages not calculated for numbers 10 or less.

EXHIBIT C

GANG RELATED INCIDENTS: SANTEE AREA V. BBB 219
SUMMARY BY INCIDENT TYPE
1.1.2008 - 8.31.2009

ALL GANG RELATED INCIDENTS			
INCIDENT TYPE	SANTEE AREA	BBB 219	% SANTEE AREA OF BBB 219**
WEAPONS OFFENSES		1	
AGGRAVATED ASSAULT	4	22	
ARMED ROBBERY		2	
AUTO BURGLARY		1	
AUTO THEFT		1	
DISTURBING THE PEACE		2	
GRAND THEFT		1	
HOMICIDE		1	
JUVENILE WARRANT		1	
OTHER FELONY		1	
OTHER MISDEMEANOR	3	8	
SIMPLE ASSAULT	7	13	
STRONG-ARM ROBBERY		4	
SUSPICIOUS CIRCUMSTANCES		2	
VANDALISM	1	4	
WEAPONS OFFENSES	5	16	
Grand Total	20	80	25.00%

~SANTEE AREA REPRESENTS 25% OF ALL GANG RELATED INCIDENTS IN BBB 219

VIOLENT GANG RELATED INCIDENTS*			
INCIDENT TYPE	SANTEE AREA	BBB 219	% SANTEE AREA OF BBB 219**
AGGRAVATED ASSAULT	4	22	
ARMED ROBBERY		2	
HOMICIDE		1	
SIMPLE ASSAULT	7	13	
STRONG-ARM ROBBERY		4	
Grand Total	11	42	26.19%

~SANTEE AREA REPRESENTS 26% OF VIOLENT GANG RELATED INCIDENTS IN BBB 219

~THE HOMICIDE IN BBB 219 OCCURRED JULY 2009 AT 1306 SANTEE DR, JUST OUTSIDE
THE SANTEE AREA BOUNDARY

**Percentages not calculated for numbers 10 or less.

**Violent gang related incidents are defined as Homicide, Attempted Homicide, Rape, Robbery, Aggravated Assault and Simple Assault